



Region 10 RTOC 3RD Quarterly Meeting Minutes, FY13

May 22-24, 2013

Crowne Plaza Hotel, Seattle, WA

Attendance

RTOC: Violet Yeaton-Tribal Co-chair, Millie Hawley- Tribal Vice Co-chair Alternate, Elizabeth Sanchez- EWA, Kris Proszek- EWA Alternate, Tom Downey- OR, Daniel Chythlook- AK3, James Holt--ID, David Fuller-WWA (5/24)
NTOC: Billy Maines-AK2, Kelly Wright-EWA/EOR/ID Alternate EPA: Dennis McLerran- EPA Co-chair (5/23), Michelle Pirzadeh- EPA Vice Co-chair, Linda Anderson-Carnahan-EPA Co-chair Alternate, Sally Thomas- EPA Vice Co-chair Alternate, Jim Woods- Sr. Tribal Policy Advisor STAFF: Rick Eichstaedt-Policy Analyst, Randi Madison- Communications Specialist, Diana Boquist- EPA Tribal Coordinator GUESTS: Michael Cox- R10 OEA, Luke Jones - AIEO, Karin Koslow- AIEO, JoAnn Chase- AIEO Director, Fran Wishusen-NWIFC, Jim Peters -Squaxon Island Tribe
EXCUSED: Rosalie Kalistook- Tribal Vice Co-chair, Debra Lekanof-WWA/WOR NTOC, Destiny Wellman-WWA RTOC, Lance Whitwell-AK3 RTOC, Brian Holter Jr.- Tribal Co-chair Alternate, Gabriel Bohnee-ID RTOC, Billy Jean Stewart- AK2 NTOC, Lee Juan Tyler-EWA/EOR/ID NTOC ABSENT: Virginia Washington-AK1 NTOC, Gregory Hoffman-AK1 NTOC Alternate

Action Items

1. RTOC Co-chairs and Communications Specialist will meet during next QM agenda review meeting to fill in outcomes column in Strategic Plan and bring to the RTOC for review at 4th Quarterly meeting.
2. Sally Thomas will follow up with Danny Gogal regarding the status of EJ Policy for Indigenous Peoples.
3. RTOC will collaborate with the NWIFC on beyond gap project.
4. Randi will highlight Jim Woods and the TELS in the next newsletter.
5. EPA will follow up on finding a speaker from DOJ for the TELS conference, Michelle Pirzadeh.
6. Jim Woods will follow up on the invite to Bob Perciasepe, Acting EPA Administrator to the TELS and coordinate an invite to JoAnn Chase, Director of AIEO.
7. Request from Dennis to schedule one on one time with Dennis during the Tribal Caucus time, to be discussed further at the next QM agenda planning meeting.
8. Committee formed to address the proposed changes to the Operations Guidance and review potential changes to RTOC Charter regarding attendance. Committee members are: Rick Eichstaedt, Randi Madison, Daniel Chythlook, Kelly Wright and James Holt.

Motions

1. Rick motioned to make corrections to the Priority document as identified in task # 3 and bring to RTOC for approval on Thursday May 23, 2013. Seconded by Billy Maines, motion carried.
2. Motion by Daniel Chythlook to adopt the Priority Document with revisions as noted, seconded Kelly Wright, motion carried.

3. Daniel Chythlook motion to adopt the April meeting minutes, seconded by Tom Downey, motion carried.
4. Motion by Kelly Wright to accept the recommendation by Violet Yeaton to have the RTOC submit a letter from the tribal caucus to EPA requesting that EPA ask the state of Alaska to address the fish consumption issue in its current triennial review. Seconded by Millie, motion carried.
5. Motion by James Holt to revise the charter to strengthen the language regarding RTOC member attendance, seconded by Millie Hawley, motion carried.

Tasks & Recommendations

1. Post the IGAP Power point, Daniels presentation, on the website along with the minutes.
2. Randi to replace Kivalina pic with Millie's photo in the Priority doc.
3. Michelle Pirzadeh will forward Randi a new Org chart showing the personnel changes at R10.
4. Recommendation made by Kelly Wright to have Region 10 contact Region 8 regarding the Coal Transport Issue and Tribes.

MINUTES

WEDNESDAY, MAY 22, 2013

8:30 am Welcome & morning prayer – Tribal Caucus

10:00 am Call to Order, Roll Call & Agenda Adjustments, Violet Yeaton

Climate Change Adaptation Update, Michael Cox R10 OEA

- Michael Cox is new to this position, introduction and background
- National plan developed by EPA, each region developing regional plans
- 4 subjects: Impacts, Vulnerabilities, Existing Actions, Future Actions
- James Holt: Legacy of many tribes is a result of its relationship with the federal government. It has failed to uphold its responsibility to tribes. There are responsible parties contributing to climate change, how will the federal government mitigate for damages and address the contributors i.e.: coal industry, etc.?
- Tribes and the RTOC will have a chance to provide input to the EPA Climate Change Adaptation plan by this summer.

GAP Guidance Update Sally Thomas R10 TTAU (PowerPoint available at <http://rtocregion10.org/us-epa-policies-plans-guidances/>)

JoAnn Chase, AIEO Director, Luke Jones AIEO, Karin Koslow AIEO Associate Director

- Purpose of the GAP Guidance is to improve the program
- Priorities listed in PowerPoint
- Allowable activities: does not specifically list, to ensure flexibility, gives examples and lists some restrictions
- Performance Reporting: Indicators of Tribal Environmental Program Capacity. Each component must be characterized by a specific capacity indicator, listed in the appendix.
- Tribal Environmental Plans: Regional offices are required to develop an ETEP with each tribe. Gap work plans are to be consistent with the ETEP's. 4 components, listed in power point
- Description of what EPA will review in IGAP applications listed in power point

- Reporting requirements: joint evaluations
- Guidance is now in the implementation phase, will be effective for proposals for FY15 funding.
- Schedule for developing ETEPS due to AIEO Jan 1, 2014. Tribes can expect to initiate discussion with tribes re: ETEPs after that date. Examples will be provided.
- The GAP online system will be revised to reflect the guidance requirements
- Individual responses to tribes re: comments on the draft are set to be distributed by the end of June 2013.
- Kelly Wright: What is EPA's definition of limited jurisdiction? Came from AK Villages re: jurisdiction issues.

Overview: Beyond GAP Grant to Northwest Indian Fisheries Commission Fran Wilshusen, NWIFC Habitat Services & Jim Peters, Squaxon Island Tribe

- GAP will always be critical, but how do we keep expanding EPA's Indian Programs to meet the needs of our tribes?
- There are limitations and barriers in the EPA Indian Programs
- NWIFC did a study to develop the documentation of needs for appropriations development met to agreement, but no real success
- Now hired a project lead and interviewing all of the tribes in the NWIFC to determine a current state of tribes, barriers, successes, needs, etc. Intended to be used by other tribes in other areas as an example & offer best practices.
- NWIFC would like to continue to develop a relationship with the RTOC
- Steering committee has developed interview questions, professional networking group to finalize questions, policy approval from tribes. Meet with individuals by phone and in person. Spreadsheet will be created with common issues.
- End result will be a final document with final review from tribes, RTOC, etc. Exact means of information distribution will be determined.
- Scope of this project is national and that it must remain within the scope of a GAP grant (i.e. must have a nexus to building tribal capacity).

EPA Staffing Transitions Michelle Pirzadeh

- Linda Anderson-Carnahan's term as the Acting Director of OETPA is ending, with David Allnutt taking her place in June as the new Acting Director. Linda will now be the Associate Director, which is a permanent position.
- Background: In addition to the Tribal Program, the Office of Ecosystems Tribal & Public Affairs also includes NEPA, Wetlands, Children's Health, EJ and ~~some~~ Public Affairs. The ETPA Director is a Senior Executive Service position and filling the job permanently includes a national process. The RA has made a tentative selection for the permanent ETPA Director, but the agency is not able to make any new SES appointments until a new Administrator is confirmed.
- RTOC could be very helpful in providing input on priorities for the new ETPA Director, once the appointment is final.

Treaty Rights at Risk (NWIFC white paper) Background & Policy Issues Carrie Byron, EPA Puget Sound Team and Gina Bonifacino Puget Sound Team

- Tribes created white paper in 2011 <http://treatyrightsatrisk.org/> in relation to salmon habitat issues
- Response included federal agency coordination to address habitat loss and salmon recovery and Federal/Tribal Forums to address watershed specific issues raised by individual tribes.
- Federal response plan sent to CEQ and Tribes last spring

- EPA response lists 41 different actions
- Swinomish Forum requested a forum with EPA, NRCS and NOAA, Nisqually tribe concerns re I-5 restricts salmon passage, Jamestown Tribe concerns re: levee setbacks
- As a result of the Swinomish Forum, new condition to agricultural landowners receiving National Estuary Program (NEP) funds: must meet guidelines National Marine Fisheries Service riparian buffers for salmon habitat protection. EPA also working with other agencies and organizations to develop landowner incentives to create riparian habitat.
- Letters sent by EPA to State agencies receiving NEP funding, stating request to follow EPA funding conditions, they are currently working on addressing the request

•

WA Culvert Case – Decision on Remedy Keith E. Cohon, Asst. Regional Counsel (PowerPoint available at <http://rtocregion10.org/meeting-minutes/>)

- Boldt Decision (1970's): co-management of fishery resource by Tribes and State, with 50% of harvest going to NW tribes
- Culverts were in violation of the treaty rights, state of WA built roads throughout Northwest impacting salmon population. DOJ is a litigant in case, aligning with tribes.
- Approx. 800 culverts identified as problematic
- Court ruling prohibiting state from building or operating culverts so that they hinder fish passage and decrease fish population available for tribal harvest. March 29, 2013 Court ruling on remedy gave State a timeline for replacing blocking culverts.
- State may appeal by May 28, 2013. They could remand, affirm or reverse. Note: State has appealed the Court decision.

Fish Consumption Update & Water Quality Standards Angela Chung, R10 EPA, Jim Woods, STPA

- Update on human health water quality criteria
- EPA disapproved state of ID water quality standards, state had 90 days to reply. Idaho Conservation League (ICL) issued intent to sue the EPA, stating that the state of Idaho did not respond in the 90 days, forcing the EPA to promulgate water quality standards for the state of ID. EPA would then determine the fish consumption rate.
- Time frame is unknown, but plaintiffs wish the EPA to act quickly. Discussion surrounding the 175 grams per day to match that of Oregon.
- EPA funding Idaho fish consumption survey. State of ID is currently doing study to attain more accurate data, slowing process while ICL is suing to speed up the process to have it set before 2016.
- EPA initiating an Idaho Tribal Leader meeting with Dennis McLerran, Region 10 EPA Administrator in July.
- State of WA looking to have water quality standards adopted by 2014, led by the Dept. of Ecology supported by EPA
- State of AK is just now initiating the process with tribes
- There is a national guidance document that states default numbers for consumption, which are 17.5 and 142 g per day for subsistence populations.
- States must review their standards every 3 years, collecting public input.
- It is helpful to cc EPA on tribal correspondence with the state regarding consumption to keep them informed.

Strategic Plan- On Target Check Violet Yeaton

- See action item #1 and task #2.

Priority Document – Review and Approve Rick Eichstaedt

- See task #3
- Motion carried to seek approval of Priority Document on May 23, 2013

FY 14 RTOC Budget/Work plan review & discussion on Caucus representation Violet Yeaton

- Reviewed budget and work plan to determine which meetings will be full and which will be primaries only.

High Priority Projects

- Handout provided by Linda Anderson-Carnahan to update RTOC on High priority projects in NEPA & Wetlands Determinations. It is a status report on new developments in these areas and provides information on opportunities for tribal input. (Available at <http://rtocregion10.org/meeting-minutes/>)
- Updates will be given quarterly.

5:00 pm Adjourn

THURSDAY, MAY 23, 2013

8:30 am Call to Order, Attendance and Agenda Adjustments Violet Yeaton

Cultural Presentation Co-Sponsored by R10's EEO American Indian Alaska Native (AIAN) Special Emphasis Program Committee Daniel Chythlook, Yup'ik from Aleknagik, AK (PowerPoint available at <http://rtocregion10.org/meeting-minutes/>)

EPA R10 Tribal Hot Topics Sally Thomas

- One page summary available at <http://rtocregion10.org/epa-quarterly-hottopics/>
- RTOC will coordinate with NTOC to give input to the EPA FY 14-18 strategic plan
- 280 GAP FY14 applications received
- System for Awards Management, under GSA registration is required for tribes receiving gap grants
- Alaska Regional Response Team conducting survey soliciting tribal feedback

Senior Tribal Policy Advisor Report to RTOC Jim Woods

- Working on the Treaty Rights at Risk issue & Idaho fish consumption
- Reviewing the US Fish & Wildlife document "Working effectively with Alaska Native Tribes", handed out to RTOC for input
- Generalized overview of STPA duties
- Focus on Government to Government consultations along with the RA
- Works with RTOC and NTOC
- Point of contact for tribes
- Provide tribal perspectives within EPA policies, strategies, programs and initiatives
- Tribal communication and coordination

Planning for Tribal Environmental Leaders Summit Ken Merrill, Kalispel Tribe TELS organizer

- Issues with finding travel funds for non-EPA federal employee speakers due to the sequester
- Request made from another agency to piggyback on the TELS for a conference on greening casinos and reducing toxics
- Suggestion made by RTOC to have regalia worn during the RTOC dinner on Wednesday.

- Seeking a speaker on ocean acidification
- Invitations sent to headquarters and AIEO for their requested attendance
- Next Planning meeting is on Thursday May 30, at 4:00 pm

Regional Administrator Update to Tribal Caucus Dennis McLerran

- We have been able to protect Tribal funding in current fiscal year and this will continue to be top priority
- NTOC will be a good channel for working through some of the budget issues
- Region 10 using 7 National priorities to determine budget cuts and curtailing spending through employee position re-evaluation to eliminate or revise. Limit set by headquarters to replace one position for every 3 that leave through attrition. Cutting positions allows protection of certain R10 programs.
- Suggestion from Kelly Wright: EPA please consider employing tribal people to fill specialty positions where there are staffing shortages, through DITKAs or other means.
- Dialogue around how water quality standards are implemented is the issue surrounding fish consumption. Full support of tribes, RA leading on this rather than being passive.
- Chuitna Coal proposal included a request to use the 404C authority, MOU signed with village of Tyonek, and involving native village in the process.
- Red Devil mine, working with BLM on agreement on process and document review
- FMC in Idaho, process of putting together a regulatory order to clean up, recent consultation with ShoBan tribe
- Silver Valley in Cd'A, trust is moving forward
- Portland Harbor health risk assessment has been approved. Feasibility Study under development.
- Lower Duwamish Proposed Plan, out for comment now, at a decision point around end of the year.
- Warmhouse beach landfill on Makah reservation was proposed for listing on the National Priorities List.
- Treaty Rights at Risk, a lot of time on this, important to RA because it can set a good precedent, and there are broader implications for other tribes outside of the western Washington tribes.
- Coal terminals, EPA written letters as coordinating agency
- The final GAP Guidance and Guidebook have been issued Region 10 has been very involved with HQ in its completion.
- AK Solid Waste and backhaul, Mathy Stanislaus and Michelle DePass encouraging other federal agencies to coordinate to address this issue.
- Involved in many AK resource development projects, hydro dam proposed between Anchorage and Fairbanks on the Susitna, EPA involved in Environmental Review.
- Welcome to new Director of OETPA, David Allnutt.
- EPA strongly engaged as cooperating agency in Coal Transport issue

RTOC Representatives' Quarterly Report to the R.A.

NTOC Update – Billy Maines & Kelly Wright

- Budget is the hot issue. Budget request and priorities for FY15
- Meeting scheduled in July, unsure of date due to budget questions
- President submitted FY14 budget
- Top 3 priorities: Air, Water and Climate Change – across the nation, other priorities among other regions are solid waste, fish consumption, hydro-fracking and EJ.
- New paradigm group in NTOC to better the relationship between EPA nationally and the tribes. Talking about inter federal agency cooperation and funding opportunities.
- Region 10 reps are the lead on many of the new goals for NTOC, very active in meetings.

Idaho - (James Holt excused, ill)

Oregon – Tom Downey

- Portland Harbor superfund site, tribes working with NRDA in process of evaluation of habitat and REA. In phase 2 of 3. 75-150 Potentially Responsible Parties. Now in critical phase.
- 11 mile East project – cleanup
- OTEF being held Sept 12-14, 2013
- Klamath Falls Tribe has gotten water rights, having a draught, now farmers wanting more water, hot issue.

Eastern Washington – Elizabeth Sanchey & Kris Proszek

- Fish Consumption rates are of major concern to tribes
- Tribal Environmental Leaders Summit being held in Spokane October 7-11, 2013
- A resolution was passed at ATNI re: ?,
- Coal Transport: Working on attaining a QAPP, read letter from Yakama Tribe to Crow Nation re: signed agreement with Cloud ? Tribes may be seeking EPA involvement in current violations of coal dust debris, seeking additional scientific evidence and impacts of coal discharge.

Western Washington – (Destiny Wellman excused, ill)

Alaska

- Alaska tribes want a good working relationship with the state. State trying to limit tribes' water rights. Although water quality is fairly good in AK now, changing weather and environment will affect its ability to remain pristine given current standards. State difficult to work with, so AK tribes will work through EPA and relationship with Dennis McLerran. –BM
- Climate Change in NW Alaska. Native Village of Kivalina working with local governments, state and federal agencies to address evacuation road for village jeopardized by encroaching sea levels.
- State of AK issued a renewal permit to the Red Dog Mine, Native Village of Kivalina is not happy.
- Ocean changes are affecting whaling, and other traditional food sources. Many communities will go without food because of changing weather conditions
- Ambler mining district opened, increases in cadmium and lead in water and plants. High, never seen before, allergy levels and skin conditions noted by health practitioners in NW Alaska.
- Issues with the word "Adaptation", we adapt by merely existing, i.e.: eating store-bought food instead of traditional foods, how do you suggest we adapt to climate change when it means we no longer practice or pass on our traditions, losing our identities?
- Elders have foreseen this climate change.
- Many AK tribes frustrated with the State of Alaska taking over the NPDES process.
- Red Tide showing up in the Aleutians.
- Ocean acidification
- Funding for Unmet needs is being cut to tribes.
- Concern about the GAP guidebook, excluding the AK tribes i.e.: Backhaul. It does allow for 2 years of programming, but after that alternate funding must be found for operational costs.
- Fish consumption
- Requests from Cook Inlet tribes to have zero discharge levels have been submitted for over 50 years, falls on deaf ears, in fact allowable levels have increased.
- Thank you to the EPA for encouraging State of Alaska to develop a protocol for interacting with tribes. It is not perfect but a good start.

Wrap-up discussion, approval of April Minutes review Q3 Action Items & Planning for June-September

5:00 pm Adjourn

FRIDAY, MAY 24, 2013

DRAFT UNTIL APPROVED 6/6/2013

Edits – DB, LA, MP

Reviewed by- VY, RK, DC

8:30 am Call to Order, Attendance and Agenda Adjustments Violet Yeaton

Operations Guidance – Annual Review Randi Madison

- Committee formed to address changes to document and charter, noted in Action Item #8.
- Communications Specialist reviewed and highlighted areas of concern in Operations Guidance prior to meeting. Committee reviewed and discussed changes:
 - Add accountability for alternates re: attendance expectations and consequences, look at charter to consider need for change
 - Add membership expectations in election materials and orientation packets
 - Add section on Elections and expand upon orientation of new members
 - Update Tribal Caucus outreach maps with correct members and EPA project officers.

11:00 am Adjourn